



CITY COUNCIL AGENDA REPORT

DATE: December 7, 2018

AGENDA OF: December 11, 2018

DEPARTMENT: Planning and Community Development

SUBJECT: 100 Laurel Street; 305, 309 & 313 Front Street; 802, 806, 810, 812, 816 Pacific Avenue (Application No. CP18-0079); Assessor's Parcel Numbers 005-152-11 to -16 and 005-152-27; Nonresidential Demolition Authorization Permit, Sequential Lot Line Adjustment, Design Permit, Special Use Permit, Coastal Permit, Revocable License for an Outdoor Extension Area, Heritage Tree Removal Permit and Street Tree Removal to Combine Seven Parcels, Remove Two Heritage Trees, Remove One Non-Heritage Street Tree, Demolish Five Commercial Buildings, and Construct a Six-story, 311, 311 Square Foot Mixed-use Building with 205 Residential Apartments and 10,656 Square Feet of Ground-Floor Commercial Space on Property Located Within the CBD/CZ-O/FP-O Zone District and Within the Pacific Avenue Retail District and Front Street/Riverfront Corridor Sub-areas of the Downtown Plan (PL)

RECOMMENDATION: Resolution acknowledging the environmental determination and approve the Nonresidential Demolition Authorization Permit, Sequential Lot Line Adjustment, Design Permit, Special Use Permit, Coastal Permit, Revocable License for an Outdoor Extension Area, Heritage Tree Removal Permit and Street Tree Removal to construct a 205-unit, mixed-use development based on the findings contained in the attached Draft Resolution (Attachment 1) and the Exhibit A Conditions of Approval (Attachment 2).

BACKGROUND: The proposal is to construct a six-story, 311,311 square foot, mixed-use building with 205 residential apartments and 10,656 square feet of ground-floor commercial space on property located within the CBD/CZ-O/FP-O zone district and within the Pacific Avenue Retail District and Front Street/Riverfront Corridor subareas of the Downtown Plan. According to the developer, the intent of the project is to create rental housing and ground-floor commercial development that is consistent with the goals and policies of the Downtown Plan while contributing to future affordable housing construction on the same block.

The project requires the following permits:

- **Sequential Lot Line Adjustment** to combine existing parcels. (Section 23.12.030.1)
- **Non-Residential Demolition Authorization Permit** to demolish five commercial structures. (Section 24.08.1210)
- **Special Use Permit** to construct greater than 60 residential units in the Pacific Avenue Retail District and in the Front Street/Riverfront Corridor subareas of the Downtown Plan Area, to allow for outdoor eating areas, and to allow for the proposed outdoor extension area. (Downtown Plan & Sections 24.12.190 & 24.12.192)
- **Design Permit** to construct a mixed-use structure greater than 55 feet in height. (24.08.410(1) and Downtown Plan)
- **Coastal Permit** to construct a 311,311 square-foot, mixed-use building in the appealable area of the Coastal Zone.
- **Revocable License for Outdoor Extension Area** to utilize public right-of-way for outdoor seating and bike parking associated with a private use. (Section 24.12.192)
- **Heritage Tree Removal Permit and Street Tree Removal Approval** to remove two heritage trees and one non-heritage street tree per Chapter's 9.56 and 13.30 of the Municipal Code.

The project includes requests for: six variations to the design and development standards in the Downtown Plan, a reduced inclusionary housing rate from 15 percent to 5.5 percent, land dedication in-lieu of on-site inclusionary housing, and approval of a parking shortfall within the Downtown Parking District.

Downtown Commission Review

On September 27, 2018 at a noticed public hearing, the Downtown Commission (DTC) approved the proposal for a parking shortfall at the project site. The Downtown Parking District parking requirements are provided in City Council Resolution NS-23,559, and based on these requirements the development requires 262 parking spaces to serve the residential units and 27 parking spaces to serve the proposed commercial square footage. The site plan includes 252 parking spaces that are intended to be reserved for residential use only, which results in a shortfall of 10 residential parking spaces and 27 commercial parking spaces. In addition to this shortfall, conditions of approval are recommended that require the developer to provide additional, active, ground-level uses along the Front Street frontage, which would remove some proposed parking in that area and potentially result in a greater parking demand. To account for this potential increase in parking deficiency, the DTC recommended that the City Council approve a range of deficiency from 37-65 parking spaces, which includes the removal of both levels of parking along Front Street, as a worst case scenario.

Planning Commission Review

On November 15, 2018, the Planning Commission conducted a public hearing on the subject application. The Planning Commission staff report is attached to this report and includes a thorough analysis of the project (Attachment 4). Prior to the public hearing, the Planning Department received written comments regarding the project via email, via the City's dedicated project webpage, and as a part of the community meeting held by the project applicant on October 3, 2018 in accordance with the City's Community Engagement policy. The comments are attached to the Planning Commission Staff Report (Exhibit D of Attachment 4). Also, several members of the public attended the Planning Commission public hearing and spoke in support of

and in opposition to the project. Those in support discussed the need for redevelopment of lower Pacific Avenue, the need for additional housing in the City, the desire to locate dense housing developments in the downtown area, and the desire to facilitate the construction of a future 100-percent affordable housing development. Those opposed to the project raised concerns regarding the proposal for land dedication in-lieu of on-site inclusionary housing units, specifically that affordable units should not be separated from the market rate units, and concern about the timeline for construction of the 100-percent affordable project. Members of the public were also concerned about potential parking impacts in the downtown parking district, illumination impacts on dark skies, and the need for public improvements on surrounding streets. Comments were divided as to the appropriateness of the style and massing of the building.

The Planning Commission considered the comments presented by the public and recommended conditions of approval of the project and made the following conclusions:

- The request for a reduced inclusionary housing rate of 5.5 percent is supported by the Zoning Ordinance and is appropriate for the project based on an analysis of the developer's pro forma by City staff and the City's consultant, Keyser Marston Associates (KMA).
- The proposal to dedicate land to the City for a future 100-percent affordable housing project provides a good opportunity to develop a greater number of affordable housing units than could otherwise be provided within the development, and a City-initiated affordable housing project will benefit from additional funding resources that may not be available to a private developer.
- The mass and height of the development is permitted in the Downtown Plan and conditions of approval require a further breakdown of the building mass on Front Street.
- The building design and massing are appropriate for the redevelopment of the downtown area. Ample interior and exterior commercial space has been provided along Pacific Avenue, and conditions of approval require additional active spaces on the ground-floor of the Front Street frontage.
- The construction of housing in the downtown area will reduce traffic by eliminating an existing drive-through use and by locating housing near public transit and a variety of commercial and recreation uses.

The Planning Commission voted unanimously to recommend that the City Council approve the application with the amended conditions of approval that are provided as Exhibit A of the Draft Resolution (Attachment 2) of this report. The draft Planning Commission minutes (Attachment 5) show the specific changes to the conditions that were recommended by the Planning Commission, and staff supports those recommended changes.

ANALYSIS

General Plan Consistency

The project site is designated as RVC/Downtown Santa Cruz (Regional Visitor Commercial) in the General Plan and is located within the CBD (Central Business District) zone district. The east portion of the site is located within the Front Street/Riverfront Corridor subarea of the Downtown Plan and the west half of the project site is located within the Pacific Avenue Retail

District subarea. The RVC/Downtown Santa Cruz General Plan designation is intended to emphasize a mix of uses such as office and retail uses, residential and mixed-use developments, restaurants, and visitor attractions and the CBD zone district is a zone that is intended to implement the objectives of the Downtown Plan. The proposed use of the parcel as a mixed-use commercial/residential project is consistent with the intent of the CBD zone district, the RVC/Downtown Santa Cruz designation, and the following General Plan policies:

- Land Use Policy 3.5: Encourage a mix of uses, including public facilities, along Lower Pacific Avenue, linking Downtown with the Wharf.
- Land Use Policy 3.7: Encourage higher-intensity residential uses and maximum densities in accordance with the General Plan Land Use designations.
- Land Use Policy 4.1.1: Support compact mixed-use development Downtown, along primary transportation corridors, and in employment centers.
- Land Use Policy 4.1.3: On major corridors, encourage mixed-use development, especially projects with priority for commercial uses that can provide services to the adjacent community.
- Land Use Policy 4.2: Encourage land use changes that reduce the need for autos.
- Mobility Policy 1.3: Create pedestrian-friendly frontage and streetscapes and attractive pedestrian-oriented areas.
- Economic Development Goal 5.5: Promote Downtown as the primary local and regional retail, entertainment, and cultural center.
 - Policy 5.5.1: Enhance Downtown as a welcoming and inviting destination for residents, visitors, and businesses.
 - Policy 5.5.3: Retain existing businesses and attract new ones to downtown Santa Cruz.
 - Policy 5.5.4: Create a distinctive and active pedestrian environment downtown.
 - Policy 5.5.5: Allow for the extension of café and retail uses within the public right-of-way, subject to design standards and management guidelines.
 - Policy 5.5.6: Require continuity of active ground-level uses (retail, restaurant, cultural, etc.) along Pacific Avenue.
 - Policy 5.5.6: Revitalize the Lower Pacific area (Pacific Avenue south of Cathcart Street).
- Mobility Policy 4.1.6: Enhance the pedestrian orientation of the Downtown Central Business District.
- Mobility Policy 4.1.7: Require the site and building design to facilitate pedestrian activity.
- Housing Element Policy 6.1: Ensure a compatible relationship between new housing and circulation patterns and encourage pedestrian and bicycle friendly communities in order to minimize traffic impacts on quality of life.
- Housing Element Policy 6.7: Promote transit-oriented, mixed-use residential developments that are close to services, reduce dependence on automobile use, and are of high quality.

Design and Development Variations

The attached staff report to the Planning Commission provides a detailed analysis of the project's consistency with the design and development standards and guidelines provided in the Downtown Plan. The Downtown Plan also recognizes that the plan can never address or respond to all development scenarios and circumstances, and provides a Design Variation process by

which an applicant can propose an alternative to the requirements. The Downtown Plan describes these as “slight variations” that must be minor in nature, must better achieve stated Plan and community objectives, and must receive a positive recommendation from the Planning Director with final approval by the City Council. The applicant is proposing six variations and all but two of the proposed variations are recommended for approval. The two variations that are not supported are further described below:

1. Proposal to construct an above-ground parking structure that is not visually separated at the ground level from public sidewalks and streets by means of active storefront uses.

Not Recommended for Approval: Section 4.E.9.c of the Downtown Plan indicates that public and private parking facilities in the Front Street/Riverfront Corridor should have active storefront uses that visually separate the garage from the public sidewalk and street. The proposed variation is to allow for approximately 133 feet of the ground-floor on Front Street to consist of two levels of private parking garage with a decorative screen between the garage and the public sidewalk. The Downtown Plan emphasizes the importance of providing pedestrian-oriented uses along Front Street to support the commercial core along Pacific Avenue, to support future connections between Pacific Avenue and the river, and to strengthen the connection between the downtown area and the beach. The proposed variation does not better achieve the objectives of the community or the Downtown Plan, and neither the Planning Director, nor the Planning Commission fully supports this design variation. Conditions of approval are included that require additional active frontage space along Front Street to better achieve compliance with the goals of the Downtown Plan.

2. Proposal to allow for approximately 70-percent of a commercial space to have a ceiling height of approximately 10 feet.

Not Recommended for Approval: Section 4.E.1 of the Downtown Plan indicates that ground-floor commercial spaces within the Front Street/Riverfront Corridor should have a minimum floor-to-floor height of 15 feet. The project is required to provide 206 Class 1 bike parking spaces which are defined in Section 24.12.250(3)(a) of the Zoning Ordinance as a locker, individually locked enclosure, or supervised area within a building providing protection for each bicycle therein from theft, vandalism and weather. The proposal is to provide a 2,514 square foot mezzanine level within the commercial space at the corner of Front Street and Laurel Street to create a secure area for 288 bike parking spaces. The plan would allow for the ground-floor commercial space to be rented to a commercial tenant and the mezzanine level to be used as private bike parking for the residential apartments. The mezzanine level would reduce the ceiling height of the commercial space to approximately 10 feet for approximately 70-percent of the space. The mezzanine is proposed to be set back about 12 feet from the storefront windows on Front Street and about 10 feet from the storefront windows on Laurel Street with a slight increased setback at the corner entry. The mezzanine would therefore be visible from the sidewalk and certainly within the commercial space, as an inactive, bike parking storage facility above the commercial use. It would also minimize the volume of the commercial space and potentially limit the type of commercial uses that could occupy and thrive within the space. A secure enclosed bike parking room is more desirable at an adjacent interior ground-floor space with the possibility of utilizing a much smaller area over the back of the corner commercial space if needed to achieve the total required number of bike parking spaces. Conditions of approval are included that require the bike parking area to be relocated to an area that does not conflict with the commercial space

at the corner of Front Street and Laurel Street and, if a mezzanine level is used, to provide 20-foot minimum setbacks from the storefront windows. In recognition of Front Street and Laurel Street being secondary commercial areas as compared to Pacific Avenue, the 20-foot minimum mezzanine setback is less than minimum 30-foot setback required on Pacific Avenue. The Planning Commission also supported this condition.

Inclusionary Housing

In 2009, in the case of *Palmer Sixth Street Properties vs. City of Los Angeles*, the Second District Court of Appeals ruled that imposing inclusionary housing requirements on rental housing development was in conflict with the Costa-Hawkins Rental Housing Act, which allows for residential landlords to set initial rent levels at the commencement of tenancy. Following this decision, development consisting of residential rental units could not be required to provide a certain percentage of affordable housing as a part of a project.

In September 2017, Governor Brown signed AB1505 into legislation (effective January 1, 2018), amending Section 65850 of the Government Code and adding Section 65850.01 which authorizes the legislative body of any county or city to require inclusionary housing as a condition of approval of a residential rental development and requires jurisdictions to include alternative means of fulfilling the affordable housing obligation. This bill effectively nullified the Palmer case decision.

On October 9, 2018, the City Council adopted amendments to Title 24 of the Zoning Ordinance to require that all residential rental development within the Downtown Development Area that would create five or more new or additional dwelling units provide 15 percent of the dwelling units as inclusionary units that shall be made available for rent to low income households at an affordable rent (Section 24.16.020(5)). The ordinance amendments further specify that for projects where properties were acquired and City entitlements commenced between January 1, 2009 and October 1, 2018, applicants may submit a pro forma analysis for review by the City to determine financial viability of the existing inclusionary requirement and to establish a lower inclusionary requirement based on a project's specific verifiable financial information. This section was intended to address projects that were well underway prior to the change in state law and where the investment in property and a project were evaluated with the assumption that inclusionary housing would not be required with a 100-percent rental residential project. The primary purpose of the added section was to ensure that the newly enacted inclusionary requirement did not unduly constrain or prohibit the production of housing, including affordable housing development. The subject properties were acquired by the developer in 2014 and 2016. A pre-application review of the project was submitted in April 2017, and the subject application was submitted in May 2018.

The applicant has submitted a pro forma, and it has been reviewed by the City's consultant, Keyser Marston Associates (KMA). The analysis concludes and Economic Development staff reviewing the work agrees that based on the prices paid for the properties, which were acquired under the assumption that no inclusionary housing requirements could be applied to the rental project pursuant to the 2009 Palmer case, and associated construction costs, the project cannot feasibly sustain more than a 5.5 percent inclusionary requirement, approximately 11 units. To approve the reduced inclusionary rate, the Council will need to make a finding that the application of the standard inclusionary requirements would result in undue financial hardship to the applicant such that public interest would be served by modifying the inclusionary requirements that would otherwise be applicable. A draft finding to this effect has been included with this report.

Additionally, compliant with newly added Government Code Section 65850 (g), Section 24.16.020 of the Zoning Ordinance allows for alternative methods to comply with inclusionary housing requirements. Subsection (5) of this section allows for the dedication of land to the City if the parcel to be dedicated is located adjacent to a City-owned land and if it is determined by the Economic Development Director that the parcel to be dedicated is a critical component of a larger City-supported affordable housing project. The applicant and property owner for the proposed project is also the owner of the parcels at 820 and 822 Pacific Avenue (APN's 005-152-18 and 005-152-34), which are adjacent to the site of a future, 100-percent affordable, City-supported housing project, which has been commonly referred to as Pacific Station. The City currently owns two parcels at 902 Pacific Avenue and 333 Front Street; however, the Economic Development Director has determined that the additional land area is necessary to support the construction of between 80 and 100 residential units between the properties currently owned and those that may be dedicated to the City to satisfy the inclusionary requirements for the subject project. The total number of units will not be known until the parcels are assembled and concept drawings are completed; however, the additional land area would support a larger project in excess of the 11 units (5.5 percent) feasible for the subject project by providing additional area desired for achieving a higher density project. Affordability levels for the proposed adjacent Pacific Station project will be recommended based on the Regional Housing Needs Allocation and subject to future Council consideration and approval.

The applicant has agreed to transfer ownership of 820 and 822 Pacific Avenue to the City of Santa Cruz within six months of City Council approval of the proposed project and prior to issuance of any building permit for the proposed project. Prior to transferring ownership, the applicant shall remove the existing vacant building from the property. Additionally, the applicant shall either acquire and dedicate 818 Pacific Avenue (APN 005-152-17) to the City or pay the City an additional in-lieu fee of \$1.2 million dollars to comply with the recommended inclusionary housing requirement for the subject project. The land dedication by the applicant will enable the City to create an additional 20-30 affordable units in the proposed Pacific Station project.

Parking Fees

As described above, the project is currently deficient by 37 parking spaces, which includes 10 residential parking spaces and all 27 commercial parking spaces, and the parking deficiency would likely increase with the establishment of additional active space at the Front Street frontage, as recommended by staff and the Planning Commission. Over the past year, it has become an objective of the City Council to work with staff and the Downtown Commission (DTC) to revise the Downtown Parking Resolution (Resolution NS-23,559) to eliminate deficiency fees for commercial parking shortfalls, which are often passed-on from the developer/property owner to the commercial tenant and have been shown to be a hardship for businesses to maintain. On September 11, 2018, the City Council directed staff to work with the DTC to update the current parking resolution to include a five-year phase-out of the deficiency fees. On September 27, 2018, staff provided an update to the DTC on the longer-term goals of developing additional parking supply for off-site/shared parking facilities to encourage redevelopment downtown. On November 27, 2018, the Downtown parking resolution was updated by the City Council to sunset the deficiency fee for parking shortfalls and instead apply in-lieu fees that are in effect at the time of building permit issuance. A condition of approval reflects this new approach.

ENVIRONMENTAL REVIEW:

It has been determined that the City's Downtown Plan Amendments EIR and the General Plan 2030 EIR have adequately addressed the following issues, and no further environmental review is required pursuant to Public Resources Code section 21083.3: biological resources (nesting birds and heritage trees); cultural resources (archaeological resources, human remains, paleontological resources); geology and soils (seismic hazards, geotechnical); greenhouse gas emissions; location on hazardous materials site; hydrology and water quality (drainage, water quality, flood hazards); noise; population and housing; public services; recreation; transportation/traffic; utilities; and cumulative impacts.

The following site-specific impacts have been analyzed in the attached checklist and determined to be less than significant and/or less than significant with General Plan policies, zoning regulations and/or development standards that are uniformly applied to development projects throughout the City: aesthetics (degrade visual character of area and light and glare); air quality (project emissions); and hazardous materials use. Thus pursuant to Public Resources Code section 21083.3 and State CEQA Guidelines section 15183, no further environmental analysis is required.

The following site-specific issues reviewed in this document were within the scope of issues and impacts analyzed in the Downtown Plan Amendments EIR and the General Plan EIR, and site-specific analyses did not identify new significant impacts: land use. No project impacts have been identified related to: aesthetics (scenic views and scenic resources); agricultural and forest resources; air quality (conflicts with Air Quality Management Plan and odors); biological resources (special status species and sensitive habitat); cultural resources (historical resources); hazards/hazardous materials (airport safety); hydrology and water quality (groundwater); mineral resources; and tribal cultural resources. Pursuant to Public Resources Code section 21099, aesthetics and parking impacts shall not be considered significant for residential, mixed-use residential or employment center projects on an infill site within a "transit priority area." The project site qualifies as an infill site within a "transit priority area" because it is less than one-half mile (approximately 200 feet) from a major transit stop, the Santa Cruz Metro Center at 920 Pacific Avenue.

Applicable policies and mitigation measures from the General Plan, General Plan EIR, Downtown Plan, and Downtown Plan EIR have been incorporated into the project or are included as conditions of approval.

SUMMARY:

An approval will allow for the construction of a six-story building with ground-floor commercial uses and parking, and 205 upper-level, residential apartments. The project will result in infill development within the downtown area and in close proximity to the metro station, commercial services, personal services, and recreational areas. The recommended conditions of approval include ground-level design improvements, an increase in ground-level activity along Front Street, and maximizing volume within commercial spaces. The Downtown Plan specifically envisions the proposed development in the subject location, and the development is consistent with the goals and policies provided in the Downtown Plan and the General Plan for the redevelopment of Front Street, for the continuation of the commercial core along Pacific Avenue, and to strengthen the connection between Downtown and the beach. The project will directly contribute to the construction of a City-initiated, 100-percent affordable housing project on the same block with the dedication of parcels to the City. As conditioned, the design of the building is consistent with the design requirements in the Downtown Plan to separate building

masses and to provide distinct designs that convey a grouping of buildings. The proposed design is contemporary, which is encouraged by the Downtown Plan, and is consistent with recently approved developments in the surrounding vicinity. Therefore, it is recommended that the City Council acknowledge the environmental determination and approve the Nonresidential Demolition Authorization Permit, Sequential Lot Line Adjustment, Design Permit, Special Use Permit, Coastal Permit, Revocable License for an Outdoor Extension Areas, Heritage Tree Removal Permit, and Street Tree Removal for the proposed project based on the Findings below and the Conditions of Approval in Exhibit A.

FISCAL IMPACT: The improvements will generate a property tax increase; however, as is the case for all residential projects, the increased property taxes will be offset by the cost of providing services (library, police, fire, etc.). The project will also generate plan check and building permit fees to the City, as well as payment of traffic impact fees and the fair share payment of future off-site improvements.

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ATTACHMENTS:

1. Draft Resolution
2. Exhibit A Conditions of Approval
3. Project Plans
 - a. Material Boards
 - b. Arch Vocab Set
 - c. Pacific Front Project Plans
4. November 15, 2018 Planning Commission Meeting Staff Report
5. November 15, 2018 Planning Commission Meeting Action Summary
6. Public Correspondence